

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
[Redacted])	DOCKET NO. 1-217-308-672
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest of an Idaho State Tax Commission (Commission) staff decision denying the property tax reduction benefit for 2018. The Commission reviewed the information in the file and this is our final decision. The Commission upholds the Intent to Deny Property Tax Reduction Benefit letter. This means you will not be receiving a benefit for 2018.

All owner-occupied residential real property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals. The benefit is in the form of payment of all or a part of the applicant’s property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

The amount of the property tax reduction benefit depends on the income received by a claimant and, if married, the claimant’s spouse—the greater the income, the smaller the benefit.

[Redacted] (Petitioner) submitted an application for a property tax reduction benefit on February 21, 2018. The staff of the [Redacted] Assessor’s office sent that application, together with other applications, to the Commission for review and processing.

Petitioner indicated on his application, by checking a box, that as of January 1, 2018, he was single. However, during review of the application and the information sent with it, the Commission learned that in 2014, when Petitioner bought the property, he was a married man. Therefore, to process his application as a single man, the Commission would need a copy of Petitioner’s divorce decree.

On September 19, 2018, the Commission sent Petitioner a letter informing him that to determine his eligibility for the property reduction benefit program he would need to provide a copy of his divorce decree. Petitioner responded, not with a divorce decree but with a copy of a Legal Separation issued in 2015.

Because Petitioner was still married, the Commission sent him a Notice of Intent to Deny Property Tax Reduction Benefit letter informing him that because his spouse's income was not shown in his application, it did not have enough information to determine his eligibility for the property tax reduction benefit program.

Petitioner protested the intended action and his file was transferred to the Appeals department for administrative review. The Appeals specialist sent a letter explaining the alternatives for redetermining the Intent to Deny Property Tax Reduction Benefit letter. Petitioner did not respond.

Petitioner protested the intended action saying that he is the sole and legal owner of the property, he does not receive any funds from his wife, and he has no access to any information regarding his wife's income.

Idaho Code § 63-701 states, in pertinent part:

63-701. Definitions. As used in this chapter:

(1) "Claimant" means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veteran's affairs; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8)(b) of this section.

(4) **"Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.** (Emphasis added.)

Id

Idaho Code § 63-701 uses definitions to describe eligibility and income requirements for an applicant to qualify for the property tax reduction benefit. These definitions are not the same definitions used in other sections of the Idaho Code or even in the common dictionary. However, the definitions are very specific. The law must be followed as written. If the law is socially or economically unsound, the power to correct it is legislative, not within the powers of the

Commission. *See John Hancock Mutual Life Insurance Co. v. Neill*, 79 Idaho 385, 319 P.2d 195 (1957).

In the present case, Petitioner filed a claim. He is the claimant. The household is defined as the claimant and the claimant's spouse. Household income is defined as the income received by the claimant and, if the claimant is married, the claimant's spouse. The fact that Petitioner and his wife live apart and file separate income tax returns, does not change the requirement to include all income received by both spouses when considering eligibility for the benefit.

The applicable statute in this case is clear. Regardless of Petitioner's living arrangements, he is married. Therefore, he must include his spouse's income to determine whether the property tax reduction benefit will be granted. The statute provides no exception to this requirement.

THEREFORE, the decision of the Commission's staff to deny the property tax reduction benefit for 2018 is APPROVED and MADE FINAL.

An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2019.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2019,
a copy of the within and foregoing DECISION was served by sending the same by United States
mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
